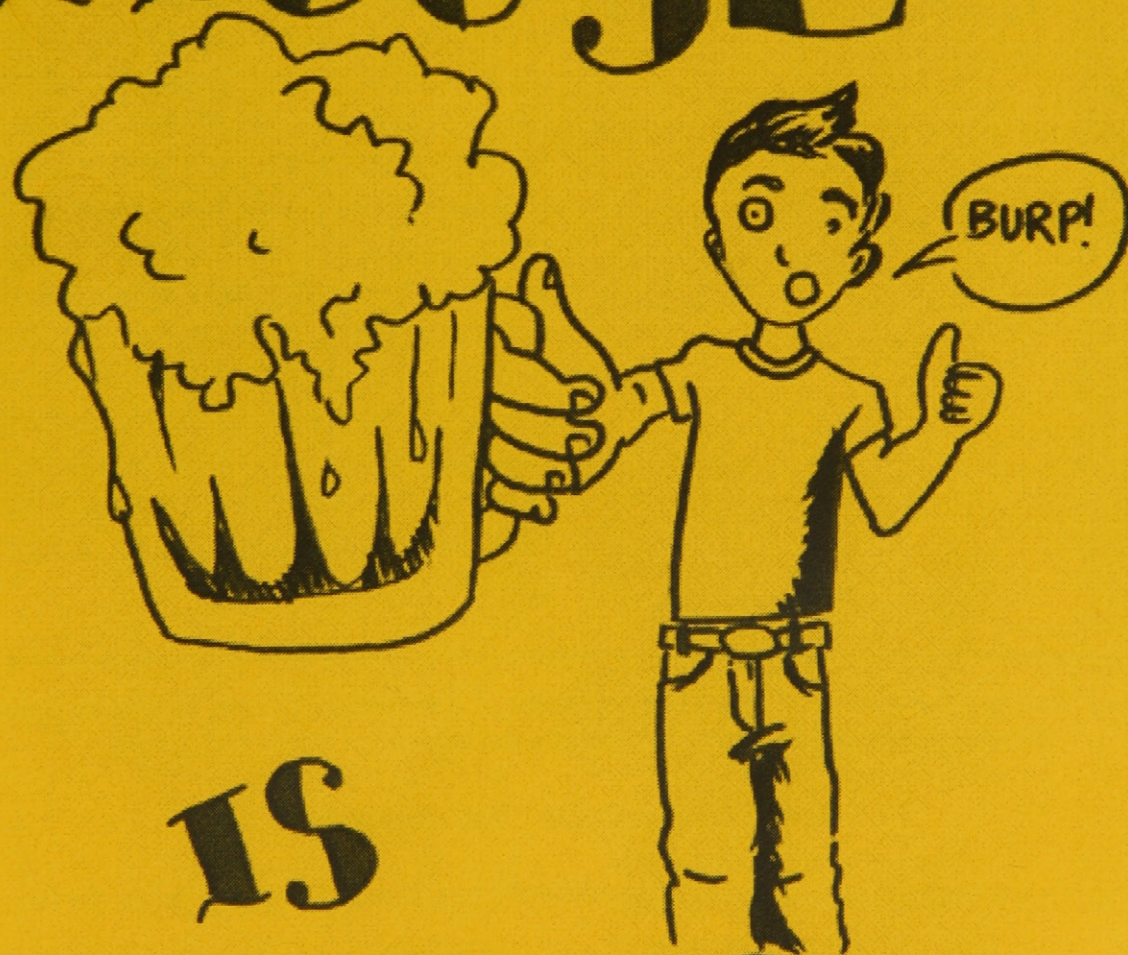


# QUID NOVI

*McGill University, Faculty of Law*  
*Volume 27, no. 11, January 30, 2007*

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## QUID NOVI

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## EDITORIAL

par **Caroline Briand (Law IV)**  
**Co-Redactrice en chef**

Parlez-en bien, parlez-en mal, mais parlez-en, dit-on. Ainsi, la petite ville de Hérouxville, en Mauricie, s'est récemment "mise sur la *mappe*" en se jetant à pieds joints dans le joyeux débat médiatique sur "l'accommodement raisonnable", ou, pour plus d'exactitude, sur la notion que semble en avoir ces jours-ci le corps journalistique. En effet, Hérouxville a averti les médias, et ce faisant, le reste de la population provinciale, qu'elle venait de se doter d'un code de conduite à l'intention des immigrants. Celui-ci précise entre autres qu'il est interdit à Hérouxville de lapider les femmes, ou de les brûler vives en public. Ouf! Quel soulagement! Pendant une seconde, j'ai bien cru que je vivais dans une société archaïque, où les femmes sont encore considérées comme des citoyennes de seconde classe, dont les droits fondamentaux et la dignité peuvent être bafoués en toute impunité. Ce n'est pas comme si à Montréal, en 2007, l'emplacement des cliniques d'avortement et d'aide aux victimes d'agression sexuelles devait encore être tenu secret. Ce n'est pas comme si l'on avait encore besoin d'avertir de brillantes étudiantes qu'elles ne sont pas tenues de répondre si, en entrevue, on leur pose des questions sur leur état marital ou leur désir, même éventuel, d'avoir un jour des enfants. Ce n'est pas comme si une femme pouvait prendre innocemment le métro sans être exposée à longueur de journée à des publicités sexistes dégradantes (comme celle, tout à fait honteuse, d'un jeu vidéo où l'on voit un jeune homme arborant un sourire fier mais vicieux, tenant en poche de patate, sur son épaule, une jeune femme dénudée qui se débat pour se dégager). Le "Code de conduite de Hérouxville" est un effort dans la mauvaise direction, mais qu'on se le dise: un tel effort, quand il concerne le droit des femmes à l'égalité et la dignité est un effort nécessaire qui se fait cruellement attendre. ■

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<http://www.law.mcgill.ca/quid/epolicy/html>.

Contributions should preferably be submitted as a .doc attachment.



# Spending Money (We all do it – but do we do it well, especially when it comes to the environment??)

by Claire Stockwell (Law II)

Being the beginning of the semester and all, I have paid many a visit to the McGill bookstore. Prominently on display is Bjorn Lomborg's latest book - How to Spend \$50 Billion to Make the World a Better Place. You may remember Bjorn for his classic - The Skeptical Environmentalist - which anyone who has taken Legal Meth could have better researched. But the point of this article is not lambaste Lomborg - the environmental community has already been there and done that; it is to explore the idea of how we spend money and whether we spend it wisely.

The Conservative government is currently burning through the dough, having announced over \$2 billion in funding (over the next 14 years) for renewable energy, technology development, and household energy efficiency programmes. A big enough dollar amount for those that normally slam the government for their environmental record to take pause. Unfortunately, however, during this moment of reflection, one will realize that the only concept the government has grasped is that of recycling.

For anyone following the issue (Ooo, Ooo - that

would be me), the energy efficiency and renewable energy programmes look a lot like the Liberal ones that were axed soon after the Conservatives took power. The slight modifications are things like removing the subsidy to get a home energy audit in the first place and will shift the focus to only reimbursing homeowners for energy efficient measures actually implemented. Superficially, the shift seems to be meant to support only concrete action, yet it means that homeowners will have to cover the \$200-\$300 upfront costs of the audit. Like the brilliant tax credit we are all now taking advantage of for using public transport, this type of initiative only gives incentives to the converted at a time when we need to convert. As for the technology initiative, I stopped listening after the clean coal part. Throwing money at the issue is not normally the most efficient way to achieve results. Throwing money at the issue when you are a conservative is hardly going to win the green vote. And throwing money at an issue whose coffers you bled dry a year ago is just not tactful.

But should we be spending money at all? 20 to 50 years from now when the brunt of

the climate impacts start manifesting themselves, won't we have the technology to fix it? Societal, environmental and economic considerations would all yield a resounding NO! But let's stick to the numbers. Sir Nicholas Stern, former World Bank Chief Economist and Head of the UK Government Economic Service, issued his 'stern warning' (ha, ha environmentalists are so creative!!) last November. His analysis concluded that the costs to limit the worst effects of climate change can be limited to around 1% of global GDP per year, but that the cost of inaction will be at least 5% and as high as 20%.

This week the Intergovernmental Panel on Climate Change, the leading scientific body on the issue, will release the first instalment of its latest review of climate science. Reports leaked to the press indicate that the scientific community will agree that it is 'very likely' that climate change is caused by human activity. This is up from their 'likely' position of 2001 and represents a shift in their confidence range from 66-90% to 90-99%. If only my GPA could follow the same trend....

With the debate on the science over and the numbers on the economics in (as dis-

turbing as they are), why is the government recycling old programmes rather than taking new and concrete steps to actually deal with the issue?

But what could these steps be? I may not have the answers, but I do know that someone with a much better idea of what we could be doing is coming to the Faculty this Thursday (what a coincidence!).

In September 2006, the Commissioner of the Environment and Sustainable Development, Johanne G  linas, tabled a report in the House of Commons outlining how the federal government had done too little and acted too slowly on Canada's commitments to address the challenge of climate change. She also made a number of recommendations on how the money could be spent in the future and on what activities. The Commissioner will be speaking this Thursday, February 1st in the Moot Court at 11:30 am. Climate change is a problem that we can and must fix. Plus having someone with a few more answers (or recommendations at least) will be a nice change of pace from the law... ■



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## International Criminal Defence Attorneys Association



## Association Internationale des Avocats de la Défense

**Montreal, 23 January  
2007**

The International Criminal Defence Attorneys Association (ICDAA) issued the following statement today regarding recent public statements made by Charles (Cully) Stimson, Deputy Assistant Secretary of Defence for Detainee Affairs, United States Defence Department. "The International Criminal Defence Attorneys Association (ICDAA) strongly condemns all statements by government officials that favour limiting the right of any person accused of a crime, or in detention for any reason, to receive the lawful assistance of counsel. We particularly reject public statements by one official of the United States Government that could intimidate lawyers who are representing persons detained at the U.S. military prison at Guantanamo Bay, Cuba.

On Thursday, 11 January 2007, Charles (Cully) Stimson, Deputy Assistant Secretary of Defence for Detainee Affairs, United States Defence Department, found himself at the core of a major controversy after

making statements on Federal News Radio concerning lawyers doing pro bono work for detainees of the U.S. military prison at Guantanamo Bay, Cuba. During a radio interview, Stimson declared that it was shocking that lawyers at many top U.S. law firms represent Guantanamo detainees. Stimson said that companies might want to consider taking their business to firms that do not represent suspected terrorists, listing the names of more than a dozen major firms he believes should be boycotted. He even suggested that some lawyers were not being truthful about their remuneration, some of which could allegedly come from terrorist organizations.

Human Rights organizations and lawyers in the United States and all over the world strongly responded to these statements. Stimson was strongly criticized for attacking the motivation and integrity of lawyers who defend, on a voluntary basis, Guantanamo detainees. There is a general concern that Stimson's statements could unfairly limit the fundamental right to due process and access for all to a full and complete

defence.

Following this controversy, a Pentagon spokesman, Lt. Col. Brian Maka, disavowed the comments made by Stimson and specified that they did not represent the Bush administration's position. On Wednesday, 17 January 2007, Stimson retracted his comments stating that his words had been misunderstood. He also apologized to the concerned attorneys and law firms and said that he never meant to cast doubt on their integrity since he himself strongly believes in the sacred principal of due process.

Despite this retraction, it does not appear that Mr. Stimson understood the objection to his comments. In withdrawing his comments, he stated he did not doubt the integrity of the lawyers and law firms whose businesses he had attacked. This is an important admission. However, the most serious objection is that he attacked not the lawyers, but the right of the persons detained at Guantanamo Bay to be represented. This is the right that the ICDAA and all those interested in human rights around the world must defend. The International Criminal

Defence Attorneys Association (ICDAA) strongly supports the pro bono work done by defence lawyers and recognizes the fundamental value of their contribution to the legal system in a free and democratic society. The rich history of the pro bono work done by American attorneys should not be vitiated by Charles Stimson's comments. They should be encouraged to continue to freely and independently exercise their profession in order to guarantee everyone's access to a full defence and a fair trial."

**For more information :**

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# 10 Things I Think I Think

by Chima Ubani (Law III)

**A**s expected, I took a week off. Actually I took two weeks off since my first article was meant to be published before the prediction it contained became impossible. But I'm back now. Enough small talk, let's get down to business:

1. I think that I witnessed one of the most shocking moments I've ever seen on TV a few weeks ago. It was on the NBC trivia show "1 vs. 100". The question was: "how many six packs do you need to have 99 bottles of beer on the wall?" The options were: a) more than 15 b) exactly 15 c) less than 15. What ensued was wild stuff. The contestant thought out loud: "Well, I know that 10 is 60, and 20 is 120, but... 99?? 15?? I'm not a beer drinker! I don't know!!" Contestants are then allowed to ask a member of the "mob" for assistance (sort of like a lifeline). So, she continued "hmm...well... I need to look for someone who is a beer drinker..." She finally settled on someone (who apparently looked like he had consumed some beers in his lifetime. He had the following to say: "Well, 11 is 66, and 5 is 30, so that's only 93 and we're already at 16. So it's got to be more than 16 at least." Wow. After some more deliberation she took a leap of faith and chose the right answer. Afterwards, the host asks a member of the mob that got the question wrong (in this case about 17 out of 70!) what they were thinking. A Maxim model had the

following to say: "Well... I dunno! I'm not a beer drinker, I drink red wine, beer makes you bloated!" (followed by cute giggles). The whole incident was very surreal to me.

2. I think that Coffeehouse is back! And I DON'T think it was a coincidence that the first truly sponsored one was one of the best attended and most fun of the year. On that note, I think that Andrew Mason deserves kudos. I'll do my part by getting him a drink at every sponsored Coffeehouse.

3. I think that all of the love Peyton Manning is getting has turned me off of the Colts and forced me to back the Bears in the Superbowl. It's a nice story and he definitely earned this shot. He's a legendary QB, no doubt. But still, enough is enough. I think the Bears are going to come out with a real underdog "what about us?" mentality. Peyton's great comeback may have camouflaged the Colts' defense's reversion to its poor mid-season form. At the same time, the Bears defense seems to have rediscovered some of its brilliant midseason form. King Rex is going to step up and make some big plays. It would be pretty funny if Peyton choked and had a horrible game, then we would have a whole new reason to question him. Anyways, it should be a great game.

4. I think that more people should write articles for the Quid. It seemed like last

week's edition had more advertisements than articles. That's no good. I think this especially because I am slaving over my computer working hard to provide the engaging talking points that you are currently reading. Shame on all of you.

5. I think I agree with my good friend Court's assessment that Borsao is the most drinkable and delicious wine available in this city in its price range (\$11.65). I've sampled a whole lot of them, and a bottle of Borsao impresses every time. This vintage is mature and confident enough to cast aside the too often used crutch of employing oak as thin veneer in order to mask a lack of real quality and substance. The deep red color shows strong tannins that reveal a full and robust palate with hints of peppery spice and ripe field berries. In his words: "The finish is like a lover's embrace that conjures up memories of lost youth." This last quality grows stronger with each emptied bottle, so you should have at least two.

6. I think that the Trastevere Pizza (mozzarella, mushrooms, prosciutto and blue cheese) at Pizzeria Napoletana is becoming one of my favourite dishes. So delicious! Bring your own wine and enjoy it.

7. I think that one of my biggest pet peeves is people who can't drive/park. Just this morning I had an incident with a guy who apparently felt that he needed two meters in front of and

behind his small hatchback in order to make sure that he could safely exit his spot later in the day. I wanted to park behind him, but didn't want the back of my car blocking a driveway, so I needed him to move up a bit. Spots are at a premium downtown; it seems to me that as a matter of common courtesy one should park as close as possible to the car in front of them in order to allow the maximum number of cars to have spots. Now, normally it is difficult to tell which car is the offender because it's impossible to know who got there first, but this time I caught the culprit red handed! Luckily he was still sitting in his car waiting for 9h30 so I was able to engage him. After much discussion he reluctantly agreed to move forward; he did so with a degree of caution indicative of a man having no appreciation of the size of his car or perception of his surroundings. I see stuff like this all the time and it really irks me. Any of you who have tried to park around school on any morning should understand where I'm coming from.

8. I think that Friday Night Lights is a great show. Perhaps even the best show on TV right now. How can a show about high school football be the best show on TV? Watch it and see for yourself. It's perhaps not as compelling as 24, but it is high quality drama even without explosions, terrorists, torture, PDAs, duffle bags and a sweet ticking clock. It even gives me



goose bumps sometimes. And that's a good thing.

9. I think that these are my random NBA thoughts at the midway point in the season:

a) The Suns (34-8) and the Mavs (35-8, after a 0-4 start) are totally out of control. Both teams have had multiple double digit winning streaks and as I write this the Suns are riding a 15 gamer. However, if history has taught us anything it is that the Sun will set some time in early June. I think the Mavs are for real though

and Mark Cuban is probably going to get the NBA title that he so deserves.

b) The LeBron James hype sure has died down. He's still having a great season (27ppg, 7rpg, 6apg), but it's definitely his quietest.

c) My Lakers are a quality team and Kobe Bryant is strong MVP candidate. All those who say that he doesn't make his teammates better need to consider the fact that a team giving substantial minutes to Luke Walton, Brian Cook, Jordan Farmar, Andrew Bynum, Smush Parker, Maurice

Evans etc. is among the upper echelon of teams in the loaded Western Conference.

d) On that note, the small power shift that seemed to have been occurring a few years ago which held the potential to create a balance of power between the West and East has clearly been halted. The balance has swung so far back to the Western Conference that it is embarrassing.

10. I think that Al Gore needs to get his act together and make up his

mind. In my last column I was talking about 10 degree temperatures; by the time it was actually published it was about -33 degrees. Then a few days later it went back up to zero, and today as I write it is around -20 degrees. So what's the deal? If it is really true that he invented the weather and can control it (which, from what I understand, was the point of "An Inconvenient Truth"), why doesn't he dial up some warmer temperatures for us here in Montreal? ■

## Les aventures du Capitaine Corporate America -

## Les angoisses nocturnes du Capitaine II

par Laurence Bich-Carrière (Law III)







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# A Reply to "When Turkey Shot Freedom"

by Andrew Mason (Law III)

**W** Turkish-Armenian relations should be taken out of a 1915 meters-deep well."

- Hrant Dink

([http://www.armenews.com/article.php3?id\\_article=27696](http://www.armenews.com/article.php3?id_article=27696))

Vrouyr Makalian opted for a punchy headline but sunk his argument. His article ignores the complexities inherent in murdered journalist Hrant Dink's world-view and blames a whole country and a culture for the crime of an individual (one might be forgiven for thinking that the 'Wong Affair' post-Dawson would have warned the author against laying blame on a people rather than an individual). To put the headline in perspective, how would one have reacted to a possible 9/12 headline: "When Muslims flew planes into freedom"? A handful of individuals acted, the international Muslim community most assuredly did not. Attempting to demonize a community for the actions of the few must always draw appropriate censure.

First, to Dink and his actual view of Armenian-Turkish relations. He consistently employed the term genocide when referring to the terrible events of 1915. To clear the elephant from the room, let us talk briefly of this genocide. Dink's position is endorsed by governments the world over -

Stephen Harper recently issued a special message to the Armenian community on the anniversary of the genocide. Past world-leaders were also aware of the atrocities and of their legacy; Nuremburg Document L3/USA-28 contains a glib statement made by Hitler to his subordinates before the invasion of Poland, "Who, after all, speaks today of the annihilation of the Armenians?" (It should be noted that this document was never entered into evidence and its provenance is controversial: see the transcript of the trial on the Nizkor Project website, <http://www.nizkor.org/hweb/imt/tgmwc/tgmwc-14/tgmwc-14-132-01.shtml>, for the comments of Prosecutor Dodds on the subject). Hitler's ramblings aside, the international community agrees that the evidence suggests there had been genocide. Dink was not afraid to advance this position.

Dink was also adamant that the issue was not black or white and he disagreed vehemently with France's new law that illegalizes all refutation of the Armenian genocide. His highly publicized sentencing at trial in Turkey was, he claimed, the result of a misunderstanding about how he was employing the folk-phrase "replace the poisoned blood associated with the Turk, with fresh blood associated with Armenia": his ultimate goal had actually been to en-

courage the Armenian Diaspora to be reconciled with the past and for Turkish Armenians to integrate within society. This position did not endear Dink to Armenian nationalists at home and abroad. It is a shame that, now that Dink can no longer clarify his position, his message and his death are being used in the course of the ongoing vendetta between Armenian and Turkish nationalists.

Now, on to Malakian's condemnation of Turkish society. There are several fissures in Turkish society (as there are in all societies): those between ethnic groups (Armenian, Turk, Kurd and others), political friction between left and right, and finally the titanic struggle between secular nationalists and Islamic fundamentalists. Since the days of Attaturk, the army has acted as the defender of secular society, going so far as to interfere in the composition of governments, such as requesting (and obtaining) the resignation of politicians deemed a threat to secularism. In the wake of the Iraq invasion, many observers (especially those from the Middle East), including a Prof at this faculty, were initially favourable to American action but now feel that the ensuing chaos and anarchy reinforces the adage 'the devil you know'. The current situation in Turkey may be comparable. There are limits on freedom and democratic action, there may be censorship of

certain forms of speech - but the alternative to the current nexus of interests that prop up Turkey's secular government appears much worse: the establishment of an Islamic Republic that could potentially be far more oppressive (particularly to religious minorities like the Armenian community) and the potential loss of a long-time NATO ally for the West. All this is not to say that we should turn a blind eye to abuses of power but rather that one must approach Turkish society and government with an eye to Turkish history and political and religious undercurrents. One should certainly not use Turkey's unique domestic situation as an excuse to blame a society for the actions of an assassin. More importantly, it seems very unlikely that Dink would wish us to do so. ■

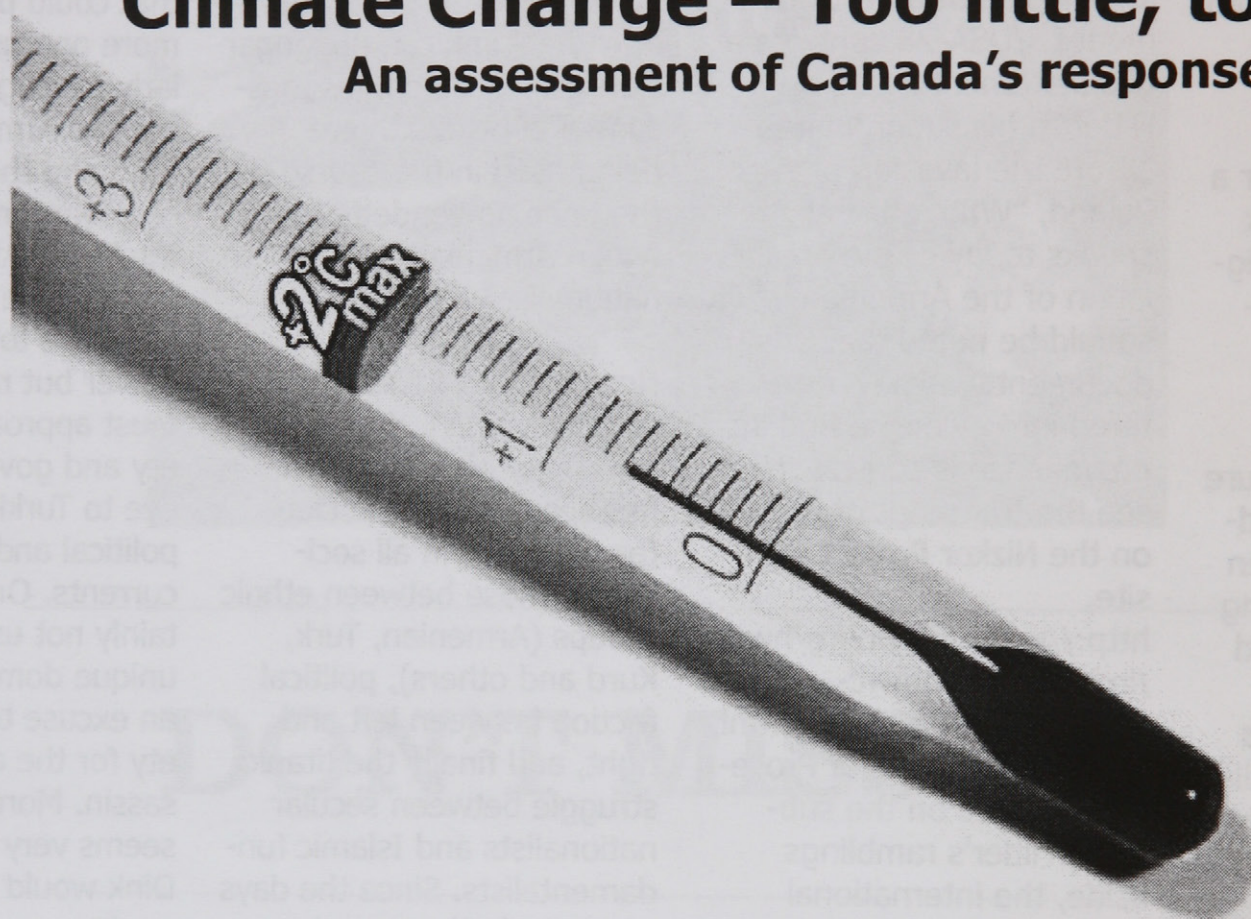


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Moot Court, New Chancellor Day Hall  
3644 Peel St. – Faculty of Law





# Rien à dire

par Marguerite Tinawi (Law II)

**C**hers condisciples du Droit,

J'avais pris la résolution en début d'année d'écrire plus souvent au Quid et la semaine dernière, je n'ai même pas été foutue de vous pondre trois lignes. Pas fort, j'en conviens. Mais avant que vous ne m'attribuez à tout jamais l'étiquette de Prometteuse-dans-le-Vent (ce qui, à vrai dire, n'irait pas si mal avec mon profil de Future-Avocate-Véreuse), donnez-moi au moins la chance de m'expliquer, de vous convaincre de mon innocence. Ou pour employer du vocabulaire à la mode ces temps-ci, laissez-moi plaider mon propre cas, faire un « moot dont vous êtes le héros ». Enfin, dans mon cas, il s'agirait plutôt d'un moot dont je suis l'héroïne, mais passons...

Alors, gang de Seigneuries, vous êtes prêts ? Écoutez bien ça...

## LES FAITS :

[1] Dans le Quid Novi du 16 janvier 2007, l'appelante (ci-après « MOI ») a publié un article intitulé « Souhaits et résolutions pour 2007 ». Ledit article se concluait par

les mots suivants : « Ma résolution pour l'année 2007 ? Écrire plus souvent au QUID ». Or MOI n'a rien publié dans le Quid de la semaine qui a suivi.

[2] Outrés, les lecteurs du Quid ont intenté un recours collectif contre MOI afin : a) d'obtenir une injonction obligeant MOI à publier un article dans le Quid chaque semaine ; b) de faire déclarer MOI comme une « Prometteuse-dans-le-Vent » ; c) d'exiger des dommages-intérêts sous forme de bière gratuite à chaque Coffee House, et ce, jusqu'à la fin de l'année 2007.

[3] Les savantes juges de première instance, à savoir Mmes les juges Briand et Gorys, ont accueilli le recours collectif des intimés dans sa totalité.

## LA QUESTION EN LITIGE :

[4] MOI a-t-elle manqué à sa résolution du 16 janvier en ne publiant rien dans le Quid du 23 janvier ?

## L'ARGUMENTATION :

[5] Écoutez les Seigneurs, c'est pas compliqué : MOI est complètement innocente. Elle a rien fait ! C'est vrai ! Alors allez pas l'ac-

cuser des pires atrocités! (Point first writing qu'ils disent dans le guide de rédaction)

[6] Et si vous n'êtes pas totalement convaincus par mon merveilleux premier argument, pensez à ça : prendre la résolution d'écrire plus souvent, ça ne veut pas dire prendre la résolution d'écrire à chaque semaine. (Trop subtile la nuance...) D'ailleurs ça veut dire quoi « plus souvent » ? Écrire plus souvent que la session dernière ? Écrire le plus souvent possible ? Envoyer un article intitulé « plus souvent » au Quid ? C'est tellement pas clair que la résolution devrait être frappée de nullité absolue (1407 CCQ).

[7] A part de t'ça, la semaine dernière, y'avait rien à écrire! Alors par souci environnemental, MOI a décidé de ne pas allonger le Quid inutilement, et ce faisant, elle a sauvé 4 arbres de la forêt boréale. Vos Seigneuries, en Équité, tant de dévouement planétaire, ça pleure pour un soulagement immédiat!!!

[8] Enfin, les juges de première instance étaient totalement biaisées et partiales. Ben oui ! En tant qu'Editors in Chief du Quid,

elles avaient tout intérêt à accueillir les demandes des intimés. Un article de plus, ça augmente dramatiquement les ventes du Quid. Alors imaginez l'aubaine lorsque l'article est assuré chaque semaine...

## L'ORDONNANCE DEMANDÉE :

[8] MOI demande à ce que : a) sa résolution du 16 janvier soit annulée pour imprecision flagrante; b) l'Ordre de la libération du Quid lui soit décerné; c) des dommages-intérêts lui soient octroyés pour solatium doloris sous forme de champagne gratuit (Dom Pérignon) à chaque Coffee House, et ce, jusqu'à la fin des temps.

## LISTES DES AUTORITÉS :

L'Autorité héraldique du Canada  
L'Autorité parentale  
L'Autorité des griefs des Forces canadiennes  
L'Autorité palestinienne  
L'Autorité financière des Premières nations  
L'Autorité d'inscription locale

Et j'en passe...

Na!■

**Vous n'avez rien à dire non plus?**

**Écrivez au Quid!**

**Heure de tombée: Jeudi 17h00**

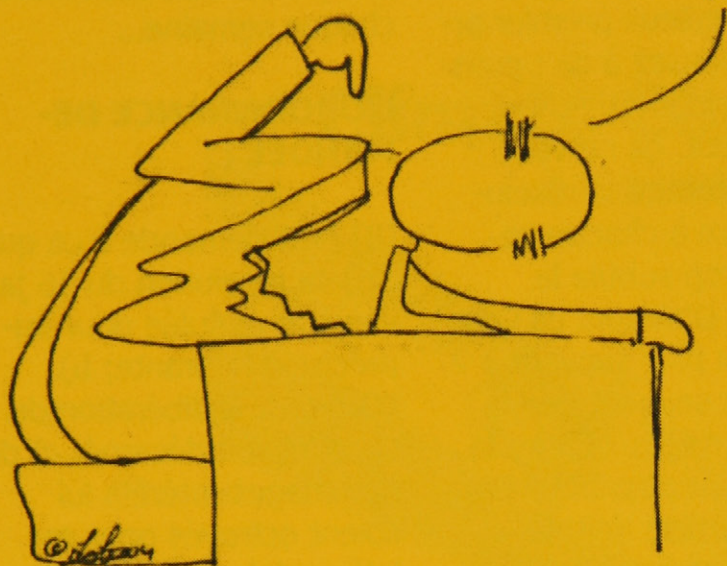


# Les aventures du Capitaine Corporate America - A la Saint-Crépin!

par Laurence Bich-Carrière (Law III)

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Maître... À la page 23 de votre mémoire vous écrivez:  
«Avec 500 kg de cocaïne, qui peut dire si mon client  
est un trafiquant ou simplement un pauvre accro?».   
Est-ce que j'ai l'air d'avoir une poignée dans le dos?



Malheureusement non. Mais ça  
peut s'arranger. J'ai ici l'adresse  
d'un excellent cordonnier...



## CAREER DEVELOPMENT OFFICE TOWN HALL

**WEDNESDAY JANUARY 31ST - 4:30 PM**  
**MOOT COURT**

The CDO Advisory Board is asking for your opinions and suggestions regarding the financing of the CDO. This meeting is a great opportunity to assess what services of the CDO are important to students and where the resources of the CDO should be spent. A short presentation on the principal issues will be followed by a period of question and discussion. Let us know what you think and share any creative solutions you might have!

A referendum on increasing student fees for the CDO will also take place around the middle of February.

Nous vous invitons à envoyer vos questions, commentaires et suggestions par courriel aux étudiants siégeant au Comité consultatif du CDO, aux adresses suivantes:  
stephanie.bachand@mail.mcgill.ca et jarom.britton@mail.mcgill.ca. Les questions reçues à l'avance seront adressées lors du town hall, en plus des questions posées lors de la rencontre.